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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,878	04/15/2004	Herve De Buyer	144-228 (196101)	7306

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EXAMINER

HAMILTON, ISAAC N

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 06/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. 10/824,878	Applicant(s) DE BUYER, HERVE	
	Examiner Isaac N. Hamilton	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 April 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. See paragraph [0007]. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "means for adjusting the cutting width" in claim 2, lines 1-2 and the "chopper" in claim 3, line 2, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

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application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. The incorporation of essential material in the specification by reference to an unpublished U.S. application, foreign application or patent, or to a publication is improper. See paragraph [0001]. Applicant is required to amend the disclosure to include the material incorporated by reference, if the material is relied upon to overcome any objection, rejection, or other requirement imposed by the Office. The amendment must be accompanied by a statement executed by the applicant, or a practitioner representing the applicant, stating that the material being inserted is the material previously incorporated by reference and that the amendment contains no new matter. 37 CFR 1.57(f). Applicant should add a description of the limitations in claim 1, lines 3-10, to the specification.

### ***Claim Objections***

4. Claims 1, 4 and 6 are objected to because of the following informalities: claims 1, 4 and 6 use the phrase "on the one hand" and "on the other hand" should be deleted; claim 4 repeats many of the same limitations, such as "a guide chamber" which may be interpreted to mean there are two guide chambers, therefore, change these limitations to --the guide chamber-- or --said guide chamber-- . Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. "Parallelepipedal" in claims 1 and 4 is indefinite because a guide chamber which is open in its upper portion does not satisfy the definition of parallelepiped, which is a six-faced polyhedron all of whose faces are parallelograms lying in pairs of parallel planes. The guide chamber has parallelogram faces on neither the top portion nor the bottom portion. For purposes of examination, the term "parallelepipedal" will be considered to mean rectangular.

Claim 1 recites the limitation "the guide rails" in line 5. There is insufficient antecedent basis for this limitation in the claim. Are the guide rails the same as the two lateral rails? For the purpose of examination the guide rails and the lateral rails are considered to be the same.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-5 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Phillips (1,974,194). Phillips discloses frame 20, 35; cutting blade 28; slot is adjacent to blade 28 through which cut vegetables pass as seen in figure 2; two lateral rails/guide rails 21; housing 48, 44, 42, 43; guide chamber/space 44, 42, 43; length is longer than width of the guide chamber as seen in figure 1; lateral fins 48; U-shaped cross section recited on page 2, line 83-86, wherein a channel is considered to be U-shaped; pusher 46, 45; presser plate 45; both the pusher plate and

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the guide chamber are rectangular; grip 46; the assembly is integral as seen in figure 1; means for adjusting the cutting width 31; chopper 62, 63, 64, 65; blades 64; the length of the guide chamber is 15 to 20 cm because in figure 2 the potato is one third the length of the guide chamber, and potatoes used to make French fries are 6-7 cm; spikes 47.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phillips in view of Rodel et al (2,583,595), hereafter Rodel. Phillips discloses everything as noted above, and discloses an inverted U-shaped element 46 as shown in figure 1; cavities are shown in the side view in figure 2 adjacent each lateral arm that is connected to the presser plate 45; ergonomic shape is shown in the side view in figure 2 by the curvature of the central arm that matches a user's curved palm during gripping; grip 46 is centered in the plane that is perpendicular and transverse to the presser plate as seen in figures 1 and 2; stiffening plates are the flanges that have screws passing through them to connect grip 46 to presser plate 45 as shown in figures 1 and 2. The lateral arms of the grip 46 are considered to be substantially perpendicular to the presser plate 45. Phillips does not disclose that the grip extends through the central longitudinal axis, however, Rodel teaches a grip that extends through the central longitudinal axis as seen in figure 1. It would have been obvious to provide the grip extending

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through the central longitudinal axis in Phillips as taught by Rodel in order to allow a user to lift the grip by rotating primarily the wrist instead of moving primarily the arm.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Miller '749, Miller '550 and Zirkiev are cited for similar structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isaac Hamilton whose telephone number is 571-272-4509. The examiner can normally be reached on Monday through Friday between 8am and 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

IH

May 31, 2006

  
KENNETH E. PETERSON  
PRIMARY EXAMINER